

Transmission Siting Processes of States in the Western U.S.

Western Governors' Association

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WGA Consultants

- **Keyes & Fox LLP** is a law firm that specializes in the renewable energy and distributed generation sectors. K&F has in-depth experience with all aspects of energy project finance, siting, and approval, as well as the development of regulatory programs and policies to support the expansion of clean energy markets. K&F has nationwide energy regulatory experience combined with substantial experience in the regulatory review and permitting of proposed new transmission projects.
- **Aspen Environmental Group** is a consulting service business with core strengths in NEPA and CEQA document preparation and expertise in energy and infrastructure project analysis, including major transmission projects. Aspen was the environmental consultant to the California Public Utilities Commission, the BLM, and the Forest Service in connection with their review of:
 - Southern California Edison's 180-mile 500 kV Tehachapi Transmission Project
 - SCE's proposed Devers-Palo Verde 2 Transmission Line Project
 - San Diego Gas & Electric Company's proposed Sunrise Powerlink Project

Federal Processes

- **National Environmental Policy Act (NEPA)**
 - Notice of Intent & Scoping
 - State and local cooperating agencies & roles defined
 - Federal Lead Agency prepares Draft & Final EIS
 - Lead Agency issues Record of Decision
- **Endangered Species Act, Section 7 Consultation**
 - U.S. Fish & Wildlife Service
 - Coordination with state wildlife agencies

Federal Processes

- **National Historic Preservation Act, Section 106**
 - Cultural resources mitigation
 - Native American consultation
- **Clean Water Act, Section 401 Permit**
 - Stormwater runoff control
 - Issued by state agencies
- **Clean Water Act, Section 404 Permit**
 - Dredge/fill of jurisdictional waters
 - U.S. Army Corps of Engineers, Regulatory Division

Arizona

- **Arizona Power Plant and Line Siting Committee conducts environmental review**
 - Issues Certificate of Environmental Compatibility (CEC)
- **Arizona Corporation Commission (ACC) has ultimate authority to approve CEC**
 - ACC also looks at project need
- **ACC is authorized to act prior to completion of related federal actions**
- **Other key state agencies with permitting authority**
 - Arizona State Land Department
 - State Historic Preservation Office
 - Department of Game & Fish
 - Department of Environmental Quality

California

- **California Environmental Quality Act (CEQA)**, a state-level NEPA, governs environmental review of transmission lines
- **California Public Utilities Commission (CPUC)** has plenary authority over transmission line siting for jurisdictional utilities
- **Municipal utilities and other public power entities** have independent authority to approve transmission lines that they will own and operate
- **California Independent System Operator (CAISO)** must approve transmission lines as part of its Transmission Plan for their costs to be rolled into CAISO rates
 - However, the largest municipal utilities are outside the CAISO footprint
- **Other key state agencies with permitting authority**
 - California Department of Fish & Game
 - State endangered species act; take permits; streambed alteration agreements
 - State and Regional Water Resources Control Board
 - State Historic Preservation Office

Colorado

- **Cities and counties can act on transmission projects through “1041 permit” process**
 - Local zoning requirements apply
 - Project developer must obtain Conditional Use Permits from each local jurisdiction through which the project will be routed
 - If denied, utilities can appeal to Colorado Public Utilities Commission
- **Other key state agencies with permitting authority**
 - Department of Transportation
 - Department of Public Health, Water Quality Control Division
 - Division of Wildlife

Idaho

- **Project siting is normally the responsibility of local jurisdictions (cities and counties)**
- **Idaho Public Utilities Commission (IPUC)**
 - Issues CPCN for electric utility facilities used to provide service to retail customers
 - Idaho Statutes section 61-526
 - IPUC has siting jurisdiction over any transmission line in a corridor designated by USDOE as a “national interest” corridor
 - Idaho Statutes section 61-1703
- **Other key state agencies with permitting authority**
 - Office of Energy Resources
 - Department of Environmental Quality
 - State Historic Preservation Office
 - Department of Fish & Game

Montana

- **Montana Department of Environmental Quality (MDEQ) has overall responsibility for transmission line siting**
 - Issues a Certificate of Compliance pursuant to Montana Major Facility Siting Act
 - Exemptions - MT Code section 75-20-104(8)(a)
 - 75% of landowners have signed right-of-way agreements with developer
 - Gen-ties to interconnect new generation facilities
- **Montana Public Service Commission**
 - Does not permit transmission lines
 - No CPCN requirement (MT Code section 69-4-101)

New Mexico

- **Project siting is normally the responsibility of county and local governments**
 - Conditional and special use permits
- **New Mexico Public Regulations Commission (PRC)**
 - Issues CPCN for electric utility facilities used to provide service to retail customers
 - NM Administrative Code section 17.1.2.9
 - Authority over location of transmission >230 kV associated with a “large capacity” power plant (>300MW)
 - NM Statutes section 62.9.3
 - Utilities may seek PRC approval of transmission line projects between 115-230 kV if application to local county or municipality is denied
- **Renewable Energy Transmission Authority**
 - Quasi-governmental; focused on developing and financing projects

Oregon

- **Oregon Energy Facility Siting Council (OEFSC)**
 - A subdivision of Oregon Department of Energy
 - Has siting authority over transmission lines 230 kV or larger that are more than 10 miles in length
 - Imposes specific standards for determining compliance
 - Project must meet all standards
 - If not, project cannot be approved unless “overall public benefits” of the facility outweigh the damage to the resources protected by the standards the facility does not meet
 - OEFSC typically acts subsequent to completion of related federal actions
- **Oregon Public Utility Commission**
 - Issues CPCN for electric utility facilities used to provide service to retail customers
- **Other key state agency with permitting authority**
 - Department of Land Conservation and Development

Nevada

- **Public Utilities Commission of Nevada (PUCN)**
 - Has jurisdiction to issue permits for the construction of all utility facilities (NV Revised Statutes Section 704-865)
 - Transmission lines designed to operate at 200 kV or more
 - Utility Environmental Protection Act
 - Encourages PUCN to conduct joint review with the federal government and other states
 - PUCN must accept findings incorporated in a previous federal review of the project
 - PUCN has exclusive jurisdiction to determine the need for a project
- **Other key state agencies with permitting authority**
 - Nevada Division of Environmental Protection
 - Nevada Division of Wildlife & Division of Forestry
 - State Historic Preservation Office
 - Department of Transportation

Utah

- **Project siting is normally the responsibility of local jurisdictions**
 - Local land use ordinances may require Conditional Use Permits
 - Siting of High Voltage Power Line Act gives authority for lines >230 kV to local land use agencies
- **Utility Facility Review Board**
 - Function is to resolve disputes between local governments and public utilities regarding the construction of public utility facilities
- **Utah Public Service Commission**
 - Regulates public utilities but does not have authority for siting of new transmission lines
 - Will issue CPCNs for new transmission lines after other federal, state, and local permits are obtained
- **Utah Generated Renewable Energy Electricity Network Authority**
 - Quasi-governmental; focused on developing and financing pr

Washington

- **State Environmental Protection Act (SEPA)**
 - Parallel to NEPA
- **Energy Facility Site Evaluation Council (EFSEC)**
 - Established under Revised Code of WA, Chapter 80.50
 - Lead Agency under SEPA for transmission
 - Seeks to work collaboratively with federal Lead Agencies on joint NEPA/SEPA documents
 - Has siting authority over transmission lines 115 kV or larger
 - Utilizes a formal adjudicative process
 - Makes recommendation to the Governor, who has final say on a proposed project
- **Other key state agency with permitting authority**
 - **Department of Ecology**
 - Water quality permits; hazardous materials

Wyoming

- **Wyoming Public Service Commission**
 - CPCNs preempt local siting decisions
- **Wyoming Industrial Siting Council**
 - Has permitting jurisdiction
 - Reviews the socio-economic and environmental impacts of industrial facilities before issuing a permit for construction
 - Jurisdiction over projects costing more than \$186.1 million
 - Conducts evidentiary hearings on proposed projects
- **Wyoming Industrial Siting Division**
 - A subdivision of the WY Department of Environmental Quality
 - Administers the WY Industrial Development Information and Siting Act
- **Other key state agencies with permitting authority**
 - State Environmental Quality Council
 - State Historic Preservation Office

QUESTIONS/COMMENTS?

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